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Message Text

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PAGE 01 STATE 049250

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ORIGIN L-03

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3/16/73, EXT. 20557
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DOD/ GC: MR. COHEN
DOD/ ISA/ FMRA: COL. TERRY
---------- 078566
R 162224 Z MAR 73
FM SECSTATE WASHDC
TO AMEMBASSY MONROVIA
INFO HQ NAVELECSYSCOM

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E. O. 11652: N/ A
TAGS: MARR, LI
SUBJECT: OMEGA LIBERIA

REFS: A. MONROVIA 1175
B. STATE 231298
C. MONROVIA 787

1. DEPTOFFS AND OMEGA PROJECT OFFICER MET WITH LIBERIAN FOREIGN MINISTRY LEGAL COUNSELOR WINSTON TUBMAN IN NEW YORK, MARCH 15. THEY EXPLAINED TO TUBMAN LIMITATIONS IN U. S. LEGAL AUTHORITY AND ALTERNATIVE FORMULATION FOR PARA 7 A OF AGREEMENT SET OUT IN PARAS 1 AND 2, REF B.

2. TUBMAN OBSERVED THAT USG' S ALTERNATIVE FORMULATION AMOUNTED TO AN EXTENSION DURING THE PERIOD OF JOINT OPERATION AND MAINTENANCE OF A LIABILITY FORMULA WHICH HAD ALREADY BEEN APPROVED BY GOL FOR CONSTRUCTION PHASE.
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HE SAID THAT FOR THIS REASON USG' S SUBSTITUTE LANGUAGE FOR PARA 7 A OF AGREEMENT WAS SATISFACTORY TO HIM. HE WILL SO ADVISE LIBERIAN FOREIGN MINISTRY BY TELEGRAM.

3. TUBMAN' S ONLY APPARENT CONCERN WAS WITH PROCEDURAL ASPECTS OF CLAIM SETTLEMENTS. DURING CONSTRUCTION PHASE MOST CLAIMS CAN REASONABLY BE EXPECTED TO BE RESPONSIBILITY OF CONTRACTOR, WHO WOULD MAINTAIN INSURANCE COVERAGE. AFTER CONSTRUCTION COMPLETED AND CONTRACTOR HAS DEPARTED,

CLAIMS SETTLEMENTS WOULD INVOLVE RESORT TO CLAIMS COMMISSIONS UNDER FOREIGN CLAIMS ACT, WITH GREATER POSSIBILITY OF DISAGREEMENT OR DELAY. HOWEVER, HE INDICATED THAT LIBERIAN JUSTICE MINISTRY HAD RECOGNIZED THAT SOME CLAIMS DURING CONSTRUCTION PHASE MIGHT ALSO BE HANDLED UNDER FOREIGN CLAIMS ACT AND HAD FOUND THAT PROCEDURE ACCEPTABLE. ACCORDINGLY, HE ASSUMED THAT EXTENSION OF SAME PROCEDURES DURING PERIOD OF JOINT OPERATION AND MAINTENANCE WOULD ALSO BE ACCEPTABLE.

4. DEPTOFFS ASSURED TUBMAN THAT USG DID NOT INTEND TO SEEK CONTRIBUTION FROM GOL FOR CLAIMS PAID BY USG.

5. AT CONCLUSION OF MEETING, IT WAS AGREED THAT OTHER POINTS RAISED IN REF B WERE NOT OF ANY CONSEQUENCE AND SHOULD NOT BE PURSUED AT EXPENSE OF DELAY IN CONCLUDING AGREEMENT.

6. ASSUMING REVISION WILL BE ACCEPTABLE TO GOL, EMBASSY IS AUTHORIZED TO ENTER INTO EXCHANGE OF NOTES CONFORMING TO TEXT SET OUT PARA 3, REF C, WITH PARA 7 A REVISED TO READ AS FOLLOWS:

" SUBJECT TO THE RESTRICTIONS AND LIMITATIONS OF APPLICABLE UNITED STATES LEGISLATION, THE GOVERNMENT OF THE UNITED STATES SHALL BE LIABLE FOR PROPERTY DAMAGE, DEATH OR PERSONAL INJURY ARISING DURING CONSTRUCTION, INSTALLATION OR JOINT OPERATION AND MAINTENANCE OF THE STATION UNDER CIRCUMSTANCES WHERE THE UNITED STATES, IF A PRIVATE PARTY, WOULD BE LIABLE UNDER THE LAWS OF LIBERIA.".

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ROGERS

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